

Message

From: Mack, Sara [mack.sara@epa.gov]
Sent: 3/11/2019 8:44:27 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips, 3/11/19

Administration

[Montana Standard: Standard view: Thank you, Mr. Administrator](#)

Budget

[Bloomberg Environment: Trump Seeks 31 Percent Cut to EPA Funding Levels](#)

[E&E News: Trump to propose deep cuts, more border wall spending](#)

[E&E News: Trump's \\$4.7T plan slashes energy, environment programs](#)

[Environmental Defense Fund: Trump Administration Chooses Once Again to Attack America's Health and Environment](#)

[Detroit Free Press: Trump tries to slash Great Lakes funding again as EPA budget faces massive cuts](#)

[The Hill: Trump proposes slashing EPA budget by 31 percent](#)

[Inside EPA: Trump's FY20 Plan Would Slash EPA's Budget By 25 Percent, Cut State Grants](#)

[Washington Examiner: Trump budget diverts spending away from EPA and renewables toward border wall](#)

CERAWeek

[E&E News: It's CERAWeek: Here come the energy titans](#)

Chemicals

[E&E News: Dems plan review of EPA's 'loose implementation' of safety law](#)

[E&E News: Lawsuits, White House inaction complicate HFC phaseout](#)

Coal Ash

[E&E News: TVA defends actions after massive coal ash spill](#)

[Inside EPA: EPA releases 2016 study finding no need to address coal ash fills](#)

Emissions

[Delaware Business Times: Viewpoint: Delaware lawsuit against EPA ill-conceived and ill-advised](#)

[Environmental Defense Fund: New Research Doubles Service Life Estimate of Marine Workboat Engines, Reveals Big Opportunities for Diesel Emissions Reductions](#)

[WGNTV: EPA records highest levels of cancer-causing gas near Sterigenics to date](#)

E15

[Journal Democrat: Celebrate Nebraska agriculture during Ag Week](#)

[PoliticoPro: Wheeler sees E15 proposal out this week](#)

Fuel/Biofuel

[Bloomberg Environment: Hyundai, Toyota Join Forces for Hydrogen Bus, Truck Technology](#)

[Bloomberg Politics: EPA Biofuel Trading Plan Would Hurt Banks, Buffett Truck Stops](#)

[Green Car Reports: EPA says fuel economy rose in 2017, but it may be falling again](#)

Water

[Arizona Daily Star: Rosemont go-ahead casts aside EPA fears over water](#)

[Bloomberg Environment: Administration Drops Effort to Delay Obama's Waters Rule](#)

[Concrete News: EPA taps public, private channel toward Water Reuse Action Plan](#)

[Inside EPA: EPA Braces For Potential Litigation Over Massive Portland Harbor Cleanup](#)

Administration:

Montana Standard

Standard view: Thank you, Mr. Administrator

https://mtstandard.com/opinion/editorial/standard-view-thank-you-mr-administrator/article_db17e524-bb57-5440-81e0-afe05e52198e.html

Posted: March 10, 2019

Doug Benevento, EPA's Region 8 Administrator for the past year and a half, is moving up. He's taking a position as the new EPA Administrator's senior counselor for regional management and state affairs. Which is a mouthful that means he will be one of the most powerful executives at the agency.

His work in and for Butte and Anaconda has been impressive. He gets high marks for efficiency, drive and straightforward, transparent dealing. Coming into a Superfund scenario here almost as toxic as the Berkeley Pit itself, he has made huge progress in a very short time.

It would seem that Butte and Anaconda are victims of his success in that he's moving out of the role in which he was so successful. But he's determined that will not be the case. He pledges to stay very much engaged with the situation here, which is in the final and critical stages of consent-decree negotiations in both towns.

All that remains to be seen, but it can't help but be positive to have someone in top agency management who is committed to succeeding with this cleanup.

A lot of hard work remains to be done. As has become evident after agreements in principle were negotiated in Anaconda and for the Butte Hill, the devil is in the details. And the physical health and economic future of these communities depends on those details being resolved favorably and expeditiously.

First and foremost, we must have certainty that human health will be protected. That includes remediation for lead and arsenic and other contaminants of concern wherever they threaten health. And it includes the requisite studies to fully and honestly assess public health across the entire Superfund complex.

Second, the economic underpinnings of the agreement must work for everybody. Both communities need the assurance there will be money to handle any cleanup-related contingencies in the future. "In perpetuity" is a long time.

Third, both the funds and the will to restore upper Silver Bow Creek as a creek, not just a park with "water features," must be set in stone as part of the Butte Hill consent decree.

But even as the dedicated and talented group of professionals assembled by Butte-Silver Bow, the state of Montana, EPA and Atlantic Richfield move forward with these tasks, it's important to recognize the enormous contribution that Benevento has made here in a short time.

Thank you, Mr. Administrator. Please don't forget the Mining City and the Smelter City. And we won't forget you.

Budget:

Bloomberg Environment

Trump Seeks 31 Percent Cut to EPA Funding Levels

<https://news.bloombergenvironment.com/environment-and-energy/trump-seeks-31-percent-cut-to-epa-funding-levels>

Abby Smith

Posted: 12:04pm, March 11, 2019

Budget proposal seeks \$6.1 billion for EPA, in line with last year's request

First budget Trump proposes under divided Congress

The Trump White House is again seeking to sharply reduce the EPA's budget, an opening offer that Congress isn't likely to follow but signals the administration's continued desire to shrink the agency.

The administration's [request](#), the broad strokes of which were released March 11, would seek \$6.1 billion for the Environmental Protection Agency in fiscal year 2020, a cut of more than 2 billion or 31 percent compared with the estimated \$8.8 billion in fiscal year 2019.

That estimate doesn't reflect the recent budget bill enacted by Congress in February to end the partial government shutdown, which closed the EPA for several weeks.

The move is consistent with the Trump administration's prior budget requests for the EPA. For its request for the prior fiscal year, the White House proposed a similar funding level for the EPA, of \$6.15 billion.

But Congress hasn't matched those cuts, and it's unlikely to do so this year. The fiscal year 2020 budget is the first the Trump administration is putting forth before a divided Congress.

Enacted Levels

The requested cut for fiscal year 2020 may not be as large when compared to enacted fiscal year 2019 levels. The EPA received \$8.058 billion under the appropriations bill Congress passed in February, according to a conference report for the legislation.

The Trump budget proposal would cut the EPA's budget roughly 24 percent below that funding level.

The budget proposal also asks for new user fees to fund the EPA's ENERGY STAR program, which helps consumers save energy through efficient appliances, saving the government \$460 million over the next decade.

—With assistance from Tiffany Stecker.

E&E News

Trump to propose deep cuts, more border wall spending

<https://www.eenews.net/eedaily/stories/1060126889>

George Cahlink

Posted: March 11, 2019

President Trump will propose today a fiscal 2020 budget that will seek deep cuts for energy and environmental programs and renew a border wall funding fight that sparked a lengthy government shutdown earlier this year.

The Office of Budget and Management is expected to release the broad outlines of its spending plan at 11:30 a.m.; more specific agency details are expected to come out during the next week.

Acting OMB chief Russ Vought and Treasury Secretary Steven Mnuchin will defend the request at hearings in both chambers this week.

OMB officials have said the budget request would mandate at least a 5 percent spending cut for all domestic programs, including those at EPA, the Energy Department and land agencies. The reductions would be a way to pay for increased national security spending without forcing an overall funding hike.

"This budget includes \$2.7 trillion in spending cuts — higher than any other administration in history," said Vought. "This is a clear road map for a more fiscally responsible future if Congress chooses to follow it." Vought said the reductions in domestic accounts would allow the budget to balance in 15 years by 2034.

Advertisement

Lawmakers from both parties believe the budget has as much chance of being enacted as the Green New Deal in a sharply divided Capitol Hill. Instead, it's viewed as a messaging document aimed at the conservative base that favors military spending but has less appetite for many domestic programs.

"Cutting 5 percent of all the other programs will be hard," said Senate Appropriations Chairman Richard Shelby (R-Ala.) last week, noting it would be an especially tough sell in the House with Democrats in control for the first time in eight years.

Similarly, House Budget Chairman John Yarmuth (D-Ky.) has said those spending cuts are "unrealistic" and have no chance of being enacted.

Lawmakers from both parties say they will need to find some common ground with sequester spending caps, delayed for the past two years, set to kick in for fiscal 2020. Those reductions would lower domestic accounts by an additional 9 percent.

Appropriators in both chambers and parties have said they are eager to avert the sequester by agreeing to another two-year deal to raise both domestic and defense accounts. They say, though, that the accord won't be easy and might not come until the new fiscal year begins Oct 1.

The White House said when it agreed to the last budget deal in 2017 that it would not back any future increases in domestic spending.

Few of the administration's fiscal 2020 budget details have been released, although EPA's climate programs and federal energy research are expected to be targeted again for severe cuts.

The request also could renew familiar calls for selling off federally owned Western power assets and federal land and tapping more of the Strategic Petroleum Reserve to increase revenue.

The White House would seek billions more for building the U.S.-Mexico border wall. Trump's recent push for more border wall funding sparked a 35-day government shutdown and forced him to declare a national emergency to try to secure the wall's funds that Congress would not provide.

In a joint statement yesterday, House Speaker Nancy Pelosi (D-Calif.) and Senate Minority Leader Chuck Schumer (D-N.Y.) said lawmakers won't support the latest wall funding request from Trump.

"The same thing will repeat itself if he tries this again. We hope he learned his lesson," the Democratic leaders said.

Congress has already scheduled several hearings this week focusing on oversight of agency spending and the fiscal 2020 request.

Schedule: The hearing of the House State and Foreign Operations Appropriations Subcommittee is Tuesday, March 12, at 10 a.m. in 2008 Rayburn.

Witnesses: TBA.

Schedule: The hearing of the House Budget Committee is Tuesday, March 12, at 10 a.m. in 210 Cannon.

Witness: Acting Office of Management and Budget Director Russ Vought.

Schedule: The hearing of the Senate Budget Committee is Wednesday, March 13, at 2:30 p.m. in 608 Dirksen.

Witness: Vought.

Schedule: The hearing of the Senate Defense Appropriations Subcommittee is Wednesday, March 13, at 10 a.m. in 192 Dirksen.

Witness: Gen. David Goldfein, Air Force chief of staff.

Schedule: The hearing of the House Ways and Means Committee is Thursday, March 14, at 9 a.m. in 1100 Longworth.

Witness: Treasury Secretary Steven Mnuchin.

Schedule: The hearing of the Senate Finance Committee is Thursday, March 14, at 1:30 p.m. in 215 Dirksen.

Witness: Mnuchin.

Reporter Nick Sobczyk contributed.

E&E News

Trump's \$4.7T plan slashes energy, environment programs

<https://www.eenews.net/greenwire/2019/03/11/stories/1060126949>

George Cahlink

Posted: March 11, 2019

The White House today outlined a \$4.7 trillion fiscal 2020 budget that would take an ax to many domestic programs, including at EPA and the Energy and Interior departments, to boost national security spending.

The [budget](#) pushes a 5 percent cut in nondefense discretionary spending accounts to \$543 billion. Defense spending would spike 5 percent to \$750 billion.

The decision means EPA would face a 31 percent cut over current spending, DOE an 11 percent reduction and Interior a 14 percent decrease, budget documents show.

"We have a real problem that is not a result of our economic policies," said a senior administration official this morning, pointing to soaring deficits.

Indeed, the administration projects a sea of red ink. The budget would not balance for 15 years. Typically, budget plans balance within a decade.

Advertisement

The proposal also calls for spending \$8.6 billion to complete construction of the U.S.-Mexico border wall, a priority sure to reignite a funding dispute with Congress that sparked a 35-day shutdown earlier this year.

Additionally, the budget would renew the administration's call for \$200 billion in infrastructure spending that, combined with private sector and local financing, would amount to \$1 trillion for a wide range of projects.

The [infrastructure plan](#) is less specific than last year's, in part to allow Congress to offer up its own suggestions.

The White House released only the broad outlines of its spending plans for agencies today; the more detailed appendix with line-item listings for each agency will be out next week.

Agency specifics

The administration official said the \$6.1 billion proposed for EPA — down from \$8.8 billion — would mean "substantial reductions" for the agency, while allowing the regulator to still meet its overarching missions of clean air and clear water and other environmental protection ([see related story](#)).

The official suggested some of the largest cuts would come by asking states and local governments to take over the agency's regional economic programs.

"Focusing on the core mission makes EPA a better steward of taxpayer dollars and promotes operational efficiencies that enhance the Agency's performance," the agency's budget summary states.

It says funding priorities will be reviewing and revising regulations, streamlining permitting, and working with state and local partners.

DOE's \$31.7 billion request would prioritize modernizing its stockpile of nuclear weapons and investing in early research and development projects.

The administration seeks to again cut several technology loan programs and its Advanced Research Projects Agency-Energy ([see related story](#)).

Interior's \$12.5 billion request would be about a \$500 million cut, although some of those reductions would be the result of changes to mandatory programs in fiscal 2019.

An administration official said \$6.5 billion would be specifically marked for rebuilding and repairing infrastructure at national parks ([see related story](#)).

Meanwhile, the Agriculture Department's budget would boost funding for forest management to the highest levels yet, the administration said, including totals of \$450 million for hazardous fuels reduction and \$375 million for forest products, mainly from national forests.

A budget cap adjustment would provide \$2.25 billion for wildfire activities at the Forest Service and Interior, without the need to borrow funds from non-fire-related accounts. Fiscal 2020 will be the first year of a new wildfire funding arrangement approved by Congress.

Outlook

Lawmakers from both parties already are largely dismissing the budget, saying it stands little chance of advancing on a divided Capitol Hill. Even Republicans stopped short of endorsing it today.

"The president's annual budget proposal is the first step in the federal budget process and will allow us to consider how his priorities align with the priorities of Congress," said Senate Budget Chairman Mike Enzi (R-Wyo.).

"I look forward to working with my colleagues and the president to curb federal overspending and help bring our deficits and debt under control," he added.

A senior administration official stressed the budget meets strict spending caps for next year that Congress mandated under the Budget Control Act. The official stressed the White House is open to other ideas for meeting those sequester levels but said it's not affordable to do so by making equal increases in defense and domestic accounts.

"We have put forward one way to continue to rebuild the military. Congress may have another way," said the official. House and Senate Budget committee lawmakers will weigh in more on the request tomorrow, with acting Office of Management and Budget Director Russell Vought set to testify before both panels.

Reporter Marc Heller contributed.

Environmental Defense Fund

Trump Administration Chooses Once Again to Attack America's Health and Environment

<https://www.edf.org/media/trump-administration-chooses-once-again-attack-americas-health-and-environment>

Elizabeth Gore, EDF Senior Vice President

Posted: March 11, 2019

"It's clear that the Trump administration has not learned its lesson that America's health and environment are never to be put on the chopping block. The call for cuts of more than 30 percent to EPA's budget—as well as harmful cuts to the budgets of other agencies vital to protecting American families from the dangers of pollution, toxics, and climate change—should be dead on arrival in Congress.

"The administration's proposal doubles down on the radical, anti-protection stance that the White House has championed, to the detriment of the American people. The real world result of these cuts would be more asthma attacks, more heart problems, and more air pollution.

"EPA remains critically underfunded. In real dollars, its budget is even less than it was nearly 40 years ago, despite a large increase in responsibilities and major growth in our population and economy. That the agency must carry out its important responsibilities while being stretched so thin is an injustice to American communities at the front lines of pollution and global warming.

"EPA's budget should be increased at least as much as other agencies that protect the health and safety of the American people. EPA is, after all, an agency dedicated to ensuring the safety and well-being of American children and families everywhere."

Elizabeth Gore, Senior Vice President, Political Affairs

Detroit Free Press

Trump tries to slash Great Lakes funding again as EPA budget faces massive cuts

<https://www.freep.com/story/news/local/michigan/2019/03/11/president-donald-trump-great-lakes-funds-new-budget/3129234002/>

Todd Spangler

Posted: 12:57pm, March 11, 2019

WASHINGTON — President Donald Trump is apparently hoping the third time is the charm when it comes to cutting funds for the Great Lakes.

The Trump administration on Monday revealed some details of its \$4.7 trillion spending proposal for the next fiscal year and it included cutting \$270 million from the \$300 million Great Lakes Restoration Initiative.

It is the third year in a row that Trump has proposed either eliminating or cutting most of the program, which is used on projects to restore wetlands and improve water quality in and around the Great Lakes.

Because the Great Lakes initiative is popular with legislators of both parties across the Upper Midwest, efforts to slash the funds have fallen flat in Congress and are expected to do so again.

In fact, Trump's entire budget is considered to be more of a wish list than a sincere policy proposal, including as it does deep cuts to social programs at a time when Democrats control the U.S. House, and requesting some \$8.6 billion more for a border wall already rejected by Congress.

U.S. Rep. Bill Huizenga, R-Zeeland, said that while he supports many of Trump's proposal that "it fails to properly fund the Great Lakes Restoration Initiative."

"I will continue to work with both Republicans and Democrats to fully fund the GLRI and protect both the economy and the ecology of the Great Lakes," said Huizenga, who is co-chair of the congressional Great Lakes Task Force.

Where in past years, the Trump administration has tried to make the case for deep cuts in programs like the Great Lakes Restoration Initiative, it did not do so on Monday, with the cut simply buried as a line item in a budget release by the Environmental Protection Agency.

Overall, the administration hopes to cut the EPA by nearly \$3 billion, or more than 30 percent of its current budget.

The Hill

Trump proposes slashing EPA budget by 31 percent

<https://thehill.com/policy/energy-environment/433496-white-house-proposes-dramatic-cuts-to-energy-and-environment>

Miranda Green

Posted: 12:26pm, March 11, 2019

President Trump on Monday proposed significant budget cuts to the government agencies responsible for overseeing the nation's energy and environmental policies, including a 31 percent reduction in spending at the Environmental Protection Agency (EPA).

The fiscal 2020 budget proposal to Congress marks the latest effort by the administration to slash funding for science and enforcement programs.

The document, titled "[A Budget for a Better America](#)," requests \$31.7 billion for the Department of Energy, an 11 percent decrease from current funding, while the Interior Department would see a 14 percent cut, to \$12.5 billion. The biggest proposed cuts among the three major energy and environment agencies would take place at the EPA, where former energy lobbyist Andrew Wheeler recently took over as the top administrator after being confirmed by the Senate.

The budget for the agency tasked with enforcing environmental regulations would plummet to \$6.1 billion, a decrease of 31 percent, under the White House spending blueprint.

"This commonsense budget proposal would support the agency as it continues to work with states, tribes and local governments to protect human health and the environment," Wheeler said in a statement Monday. "I am proud of the tremendous progress that EPA and its partners have made in cleaning our nation's air, water and land, and I am looking forward to continuing this progress through FY 2020."

"Focusing on the core mission makes EPA a better steward of taxpayer dollars and promotes operational efficiencies that enhance the Agency's Performance," the White House added in its request to Congress.

Overall, the administration proposes eliminating more than \$650 million in programs and activities compared to current funding levels.

The proposed reductions at EPA are in line with the steep cuts — about 25 percent — that the White House's Office of Management and Budget proposed for the agency for fiscal 2019, which began Oct. 1. The year before that, the administration proposed cuts that exceeded 30 percent.

Lawmakers have declined to enact most of Trump's previous funding requests, and it's unlikely that drastic EPA cuts will be enacted by Congress this year, especially since Democrats are now in the majority in the House.

Trump promised on the campaign trail to cut back on enforcement actions at places like the EPA that often hurt the bottom line of the fossil fuel industry and especially coal-fired plants.

The administration's budget proposal for EPA highlights increased water infrastructure projects and efforts to remediate Superfund sites. The agency pointed to a "redundancy" in funding as one of its reasons for the proposed budget cuts.

"A priority area for EPA is to create consistency and certainty for the regulated community and to remove unnecessary or redundant regulations," the agency wrote in its budget brief. "Removing unnecessary regulatory burdens allows the EPA to be a catalyst for economic growth while strengthening our focus on protecting human health and the environment."

The White House budget request also seeks to slash other key science and renewable areas, including a repeal of the tax credit for electric vehicles. Other cuts to the Department of Energy include well-known clean energy research and development grant programs such as ARPA-E.

The National Oceanic and Atmospheric Administration, which is responsible for monitoring weather systems and oceanic temperatures, would see its funding cut under Trump's proposed budget, with the recommended elimination of the Sea Grant, Coastal Zone Management Grants and Pacific Coastal Salmon Recovery Fund.

Updated at 1:24 p.m.

Inside EPA

Trump's FY20 Plan Would Slash EPA's Budget By 25 Percent, Cut State Grants

<https://insideepa.com/daily-news/trump%E2%80%99s-fy20-plan-would-slash-epa%E2%80%99s-budget-25-percent-cut-state-grants>

David LaRoss

Posted: March 11, 2019

President Donald Trump's fiscal year 2020 budget request would slash \$2 billion, or 25 percent, from EPA's current \$8.1 billion appropriation, leaving the agency with \$6.1 billion, terminating a host of voluntary and "lower-priority" programs and cutting funding for states even as the agency aims to give them more responsibility under its "cooperative federalism" agenda.

The budget request, released March 11, is unlikely to gain any traction in the Democratic-led House, and some Republicans are likely to push back on specific proposals -- such as the plan to cut \$1.4 billion from state grants, which would bring the program down from the current \$4.2 billion to \$2.7 billion.

Release of the budget, as well as an EPA-specific "budget in brief," shifts attention to Congress, where both chambers' appropriations panels will hold hearings and craft their own FY20 plans.

Many Democrats and environmental groups have already released statements on Trump's FY20 plan saying it will never become law, and GOP lawmakers have resisted prior calls for such massive cuts to the agency. For example, during debate over EPA's FY18 plan, Rep. Tom Cole (R-OK) told then-Administrator Scott Pruitt that Congress would not approve a proposed 31 percent cut to EPA's budget. "I can assure you, you are going to be the first EPA administrator that has come before this committee in eight years that actually gets more money than they asked for," he said. Nevertheless, the budget proposal offers an outline of the Trump administration's priorities for EPA during the coming fiscal year that starts Oct. 1, as well as the programs the president wants to eliminate.

The FY20 funding cuts at EPA are part of a previously signaled White House plan to reduce discretionary spending by 5 percent overall. On a March 11 call with reporters, a senior administration official said the 5 percent is not level across all agencies as first indicated and was instead spread across specific agencies and programs including EPA -- explaining the massive proposed 25 percent cut to the agency rather than 5 percent.

The \$1.4 billion funding drop includes reductions to both categorical grants, from \$1 billion to \$580 million, and state revolving funds that support water infrastructure projects, from \$2.8 billion down to \$1.9 billion. The push for those reductions comes amid officials' focus on cooperative federalism in EPA's work, which states have generally welcomed but with the caveat that they still need federal funding and other assistance to carry their burdens.

"We do ask states to step up and to perform some of the activities that they should also be contributing towards. We eliminate most of the regional economic programs," the senior administration official said.

Accounts that support EPA's own regulatory and enforcement work are also targeted for major cuts. The science and technology account would drop by \$250 million, from \$713 million to \$463 million; and the environmental programs and management account, which covers most of the agency's regulatory activity, is slated for a \$798 million cut from \$2.6 billion to \$1.8 billion.

Further, the budget document says the administration "proposes to eliminate many voluntary and lower-priority activities and refocus the Agency on strategic and regulatory reforms" such as rollbacks of Obama-era water, air, climate and other policies. The list of activities slated for elimination in the budget-in-brief runs for six pages and includes many that enjoy bipartisan support, such as geographic pollution-control programs and Clean Water Act (CWA) section 319 grants for states' work to control nonpoint-source pollution.

Bipartisan Opposition

But in a sign of the bipartisan opposition the administration faces, lawmakers are already signaling they plan to fight many of the proposed cuts.

For example, the administration's FY20 plan comes less than a week after Reps. Angie Mead (D-MN) and Brian Mast (R-FL) introduced H.R. 1331, a bill that would reauthorize the same CWA section 319 grants being targeted for elimination in the budget request.

House and Senate Democrats are also pushing back against the White House's proposal more directly. Rep. Nita Lowey (D-NY), chair of the chamber's full appropriations committee, called Trump's FY20 request "even more untethered from reality than his past two" in a statement shortly after its release and warned that the new document "has no chance of garnering the necessary bipartisan support to become law."

The administration's FY18 and FY19 requests, which sought EPA budgets of \$5.7 billion and \$6.1 billion respectively, never became law despite Congress being fully under Republican control in those years; Republicans instead sought much more modest cuts to the agency's funding, and ended up passing continuing resolutions that have held its budget steady at levels first established in the Obama administration.

Lowey continued, "In order for us to complete an orderly and responsible fiscal year 2020 appropriations process, Congress and the President must quickly agree on a framework that raises caps for defense and non-defense investments alike."

That could be a stumbling block for bicameral negotiations; during the March 11 call, the administration official said the White House hopes to avoid the bipartisan practice of matching defense spending hikes with an equal boost to non-defense spending.

"We are signaling in this budget that the old paradigm of a dollar increase in non-defense spending for every dollar increase in defense spending is no longer affordable for our country," the official said.

Meanwhile, Sen. Chris Van Hollen (D-MD), a member of the upper chamber's budget and appropriations panels, said in his own statement that "[t]his budget makes it clearer than ever where [Trump's] priorities lie -- in protecting millionaires and billionaires while cutting investments in health care, education, and the environment."

And the Natural Resources Defense Council is touting the Democratic opposition to Trump's request, with John Bowman, the group's acting government affairs director, saying in a March 11 statement, "President Trump's priorities remain dead-wrong --and they would be dangerous if enacted. Selling out our kids' health and our public lands to corporate polluters is not what the American people want or need. Thankfully, this budget proposal is DOA." -- *David LaRoss* (dlaross@iwppnews.com)

Washington Examiner

Trump budget diverts spending away from EPA and renewables toward border wall

<https://www.washingtonexaminer.com/policy/energy/trump-budget-diverts-spending-away-from-epa-and-renewables-toward-border-wall>

John Siciliano and Josh Siegel

Posted: 12:02pm, March 11, 2019

President Trump's fiscal 2020 budget blueprint released on Monday takes a knife to spending on renewable energy at the Energy Department while gutting the Environmental Protection Agency, and doubling spending for a U.S.-Mexico border wall.

The Trump budget proposes over \$12 trillion in agency cuts, with a nice clean 5 percent cut in domestic spending, with EPA sustaining a 31 percent cut if the president gets his way — the largest across-the-board slashing for any agency in the new spending request.

The Department of Energy's Energy Efficiency and Renewable Energy Office will see its fiscal 2020 budget gutted by 70 percent, from \$2.3 billion to around \$700 million.

The budget also proposes \$8.6 billion in new funding for Trump's promised Mexican border wall and significantly raises Defense Department spending.

The Energy Department fiscal 2020 budget requests \$31.7 billion for the agency, which is a 11-percent decrease from the 2019 enacted level.

The budget document issued by the White House on Monday shows that part of the renewable energy office's priorities will be diverted to a new energy storage initiative. The budget requests \$158 million for the Advanced Energy Storage Initiative, which is described a coordinated effort jointly led by the Office of Electricity and the Office of Energy Efficiency and Renewable Energy.

The agency will place priorities on national security and energy security, with big boosts for nuclear and coal and cyber security.

EPA's total budget request is \$6.1 billion, which is a \$2.8 billion decrease from the fiscal 2019 estimate. The budget proposes to eliminate many voluntary and lower-priority activities and refocus the EPA on strategic and regulatory reforms such as reforming the Obama-era Waters of the United States rule. The administration considers the WOTUS rule a prime example of regulatory overreach by the previous administration.

Another priority will be replacing the Obama-era Clean Power Plan climate rules with the Trump EPA's Affordable Clean Energy rule, which benefits coal-fired power plants.

More detailed, line-by-line budgets from the agencies will come out on Wednesday, before being sent to Congress next week.

CERAWeek

E&E News

It's CERAWeek: Here come the energy titans

<https://www.eenews.net/energywire/stories/1060126831>

Edward Klump

Posted Monday, March 11, 2019

HOUSTON — International fuel fights, trade wars and looming climate concerns are poised to take center stage in Texas this week as Cabinet members and CEOs join global dignitaries at one of the world's most closely watched energy gatherings.

CERAWeek by IHS Markit runs today through Friday in Houston's revitalized downtown. This year's theme is "New World of Rivalries: Reshaping the Energy Future."

"In other years, we've had more optimistic titles," Daniel Yergin, the conference chairman, said in a recent interview.

"And here, we were trying to be realistic about what's happening in the world."

CONTINUING COVERAGE

E&E News is in Houston to cover one of the world's most prominent energy conferences. CERAWeek by IHS Markit runs March 11-15 and features Cabinet members, industry CEOs, global dignitaries, lawmakers and regulators.

Possibly on tap: discussions surrounding climate change, the Green New Deal, trade and fierce competition among fuel types.

Yergin also noted the significance of holding CERAWeek as the United States emerges as the world's largest oil producer. The Trump administration will be well-represented. EPA Administrator Andrew Wheeler, Energy Secretary Rick Perry and Secretary of State Mike Pompeo are on this week's agenda, as are Chairman Neil Chatterjee and Commissioner Bernard McNamee of the Federal Energy Regulatory Commission.

Sens. Lisa Murkowski (R-Alaska), Joe Manchin (D-W.Va.) and John Cornyn (R-Texas) also are slated to speak.

Attendees can expect to hear from oil and gas heavyweights such as BP PLC's Bob Dudley, Chevron Corp.'s Mike Wirth and Occidental Petroleum Corp.'s Vicki Hollub. CEO Mauricio Gutierrez of NRG Energy Inc. and Edison International CEO Pedro Pizarro are among the scheduled electricity voices.

Other notable guests include the secretary-general of OPEC and the crown princess of Denmark. Alaska Gov. Mike Dunleavy (R) and former Colorado Gov. John Hickenlooper, a current Democratic presidential candidate, also are scheduled to appear.

Fred Krupp, president of the Environmental Defense Fund, is one of the green-leaning names expected at CERAWeek. A different view may come from Steven Koonin, a professor at New York University and a former undersecretary at DOE in the Obama administration, who has been actively recruiting participants for the White House's "adversarial" review of climate science (*Climatewire*, Feb. 25).

Companies outside the energy sector are on the agenda, as well, including speakers tied to Amazon.com Inc. and Microsoft Corp. Also on the calendar: William Clay Ford Jr., the executive chairman of Ford Motor Co.

In all, CERAWeek is expected to draw more than 4,000 people who will represent over 70 countries. Public policy is shaping up as a major part of the discussion, whether the subject is the United States or beyond.

"In so many different ways, the energy business — whether it's oil and gas or electric power — is a highly regulated business," Yergin said.

What's on tap

This week's event marks the 38th version of CERAWeek, whose name is derived from the former Cambridge Energy Research Associates.

What rivalries will be discussed?

Yergin, 72, pointed to talk of trade wars and competition among great powers, as well as rivalries involving fuels, markets and technologies. Different ideas remain, he said, about the future of energy and how the economy should be organized.

The vice chairman of IHS Markit said discussions on cars and mobility will be of interest, as will views on the management of carbon. Yergin said infrastructure is another focus area, from pipelines to ports.

Yergin cited continuing interest in shale, energy exports and a rise in U.S. oil production. Another issue, he said, is the relationship between companies and investors.

On electric vehicles, Yergin said a number of automobile makers are getting on the EV "bandwagon." That's driven in part by policy and their perceptions of the market, he said. Another factor is a legal settlement involving Volkswagen AG. "Certainly, there's the question of when and how does the fleet change," said Yergin, who noted potential talk this week of autonomous vehicles and ride-hailing.

Yergin said technology companies are interested in energy because it's a business with great scale, and they have capabilities to offer around digitalization that can help economic competitiveness. A program known as Innovation Agora will help tackle emerging technologies during CERAWeek.

Much attention also will be on Pompeo, who's making an unusual appearance at CERAWeek as a sitting secretary of State. He may discuss how energy and U.S. foreign policy interact.

Yergin said U.S. exports of oil and gas may be "one element in a resolution of the trade war between China and the United States."

Turmoil in Venezuela is expected to be discussed at this year's CERAWeek, as well. The Trump administration's approach to regulation is likely to be a topic, and the 2020 U.S. presidential election looms in the background. Liquefied natural gas is another key area.

Yergin said he expects to hear about climate change, management of emissions and the role of carbon capture and nature-based solutions this week. The potential Green New Deal also is a likely subject of discussion.

Mark Brownstein, senior vice president of energy at the Environmental Defense Fund, said that at times, past trips to CERAWeek left him feeling like "an endangered species" at a hunters' convention. But he said he has noticed a change in recent years.

Now, Brownstein is hoping he's more like a panda at the conference — "I'm still rare, but everyone loves me."

'Second wave' of shale

Also today, the International Energy Agency is releasing its annual oil market forecast. The United States, buoyed by the shale industry, will drive global oil supply growth over the next five years, IEA said in a news release.

"The second wave of the US shale revolution is coming," Fatih Birol, executive director of the IEA, said in a statement. "It will see the United States account for 70 [percent] of the rise in global oil production and some 75 [percent] of the expansion in LNG trade over the next five years."

He added: "This will shake up international oil and gas trade flows, with profound implications for the geopolitics of energy."

IEA said it sees "no peak in oil demand," as jet fuel and petrochemicals are drivers of growth to more than offset a potential slowdown in gasoline. It said security of supply is linked in the longer term to upstream investment, which may rise in 2019 based on preliminary plans from major oil companies.

Brownstein said the oil and gas industry is a big contributor to global greenhouse gas emissions. For someone focused on addressing climate change, CERAWeek offers a chance to question and push. Brownstein mentioned man-made methane emissions as an area that could be improved.

"If you want to make big change, you better be talking to the people that have a big responsibility for the issue," he said in an interview.

Brownstein noted the potential of wind, solar, batteries and EVs and the possibility of using less oil and gas in the future. Still, some CERAWeek speakers pushed back last year on the outlook for electric vehicles and how they might affect oil use (Energywire, March 7, 2018).

That means there's work to do while at the conference, according to Brownstein. He said a "global consensus" remains on the need to address climate change even as the United States takes a back seat in global climate policy discussions. Yergin and former Energy Secretary Ernest Moniz recently gained attention for their work on a study about advancing clean energy innovation (Energywire, Feb. 6). Moniz is on CERAWeek's agenda this year.

Yergin said some companies at CERAWeek may talk about broadening their energy portfolios beyond oil and gas.

"I think what you're going to hear is a lot of emphasis on maintaining the efficiencies that have been required over the last couple of years," Yergin said. "The tone this year, I think, will be pretty measured."

Chemicals

E&E News

Dems plan review of EPA's 'loose implementation' of safety law

<https://www.eenews.net/eedaily/stories/1060126809>

Cecelia Smith-Schoenwalder

Posted: March 11, 2019

A House Energy and Commerce panel this week will question EPA's protection of workers exposed to toxic chemicals.

"Protecting vulnerable populations is an essential part of EPA's mission, but under this administration, the agency has systematically undervalued or completely overlooked the risks workers face from exposure to chemicals on the job," full committee Chairman Frank Pallone (D-N.J.) and Environment and Climate Change Subcommittee Chairman Paul Tonko (D-N.Y.) said in a joint statement.

"Workers should not have to choose between their health and their jobs," they continued. "We will get to the bottom of this situation and do what it takes to hold the EPA accountable and ensure all our workers are safe."

A memo said the hearing will address "how workers are being harmed as a result of the Environmental Protection Agency (EPA) systemically ignoring exposure risks in its loose implementation of the Frank R. Lautenberg Chemical Safety Act and other laws."

Members are likely to ask about methylene chloride, a chemical found in paint strippers. It has been linked to more than 50 deaths, and EPA faces lawsuits over its failure to ban it (*E&E News PM*, Feb. 19).

Advertisement

Anti-terrorism program

House Homeland Security Chairman Bennie Thompson (D-Miss.) has indicated he wants long-term reauthorization of a chemical security program, and he has wasted no time scheduling a second hearing on the issue this Congress.

Tomorrow, the Cybersecurity, Infrastructure Protection and Innovation Subcommittee will ask witnesses for their opinions on the Chemical Facility Anti-Terrorism Standards program, or CFATS.

The statute works with more than 3,000 high-risk facilities and is currently operating under a 15-month extension.

Last month, the full committee met to begin the process to get a longer reauthorization for the program (*E&E Daily*, Feb. 28).

Consumer safety

The House Oversight and Reform Committee tomorrow will look at the health risks of consumer products that contain carcinogens.

Last week, the Food and Drug Administration issued an alert that certain products from the retailer Claire's contained asbestos.

FDA testing found the carcinogen in eye shadows, compact powders and contour palettes. Claire's said it does not believe it is still selling the affected products.

Schedule: The Energy and Commerce hearing is Wednesday, March 13, at 10:30 a.m. in 2322 Rayburn.

Witnesses: TBA.

Schedule: The Homeland Security hearing is Tuesday, March 12, at 10 a.m. in 310 Cannon.

Witnesses:

Randy Manner, Manner Analytics LLC.

John Morawetz, director, International Chemical Workers Union Council Center for Worker Health and Safety Education.

Mike Wilson, national director, Occupational and Environmental Health Program, BlueGreen Alliance.

Pamela Nixon, president, People Concerned About Chemical Safety.

Kirsten Meskill, director of corporate security, BASF Corp.

Schedule: The Oversight and Reform hearing is Tuesday, March 12, at 10 a.m. in 2154 Rayburn.

Witnesses:

Scott Faber, vice president of government affairs, Environmental Working Group.

Anne McTiernan, research professor, epidemiology, University of Washington School of Public Health.

Marvin Salter.

E&E News: Lawsuits

White House inaction complicate HFC phaseout

<https://www.eenews.net/climatewire/stories/1060126783/search?keyword=EPA>

Jean Chemnick

Posted: March 11, 2019

Environmentalists and manufacturers took one more stab Friday at reinstating Obama-era restrictions on climate superpollutants used in refrigeration and cooling.

U.S. manufacturers Honeywell International Inc. and Chemours Co., which developed alternatives to heat-trapping hydrofluorocarbons, or HFCs, joined again with the Natural Resources Defense Council to urge a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit to affirm EPA's authority to ban the substances.

Two years ago, the court sided with two foreign-owned HFC manufacturers in finding that EPA can't use a Clean Air Act program aimed at restoring the ozone layer to force companies to stop using the chemicals in favor of new, more climate-friendly substitutes. HFCs previously appeared on a list of acceptable alternatives to ozone-depleting substances.

That decision, penned by now-Supreme Court Justice Brett Kavanaugh, invalidated EPA's 2015 Significant New Alternative Policy, or SNAP, rule. The agency broadened its HFC restrictions in 2016, and the two rules formed the basis for the Obama administration's plans to comply with a global agreement on HFCs reached in Kigali, Rwanda. The Trump administration has yet to submit the Kigali Amendment for Senate approval.

The Trump administration initially defended the SNAP rules in 2017 but reversed course after the Kavanaugh decision. Department of Justice attorney Ben Carlisle, representing EPA, told the panel Friday that the facts in the lawsuit over the 2016 rule are "materially identical" to those in the case concerning the invalidated 2015 rule.

Advertisement

The judges should "refuse to allow the intervenors a fourth bite at the apple to litigate this court's jurisdiction," Carlisle said. But Thomas Lorenzen, a partner at Crowell & Moring and a former DOJ attorney who represented the U.S. manufacturers in both cases, argued that Kavanaugh's decision doesn't "grapple" with the fact that the original 1994 regulation for SNAP states that "no person may use a substitute after the effective date of any rulemaking adding such substitute to the list of unacceptable substitutes." He argued that the 60-day limit to bring a lawsuit challenging that provision expired 25 years ago.

The challenge by Mexico-based Mexichem Fluor Inc. and France-based Arkema SA is therefore coming a quarter-century too late, he said.

But Carlisle said the court had made the "exact findings necessary to resolve this issue" in 2017 and found that the 2015 rule "represented a new interpretation of EPA's authority."

Lorenzen, though, said the 2017 decision should have acknowledged and addressed the timing issue.

"What they're trying to argue is that even though the courts are silent on this that the courts somehow decided this," he said.

Kavanaugh and fellow George W. Bush appointee Judge Janice Rogers Brown made up the majority of the 2017 panel; Brown retired from the D.C. Circuit shortly after hearing the case, and Kavanaugh was confirmed to the Supreme Court in October 2018.

This time, the U.S. manufacturers and NRDC face an arguably friendlier panel of three judges appointed by Democratic presidents. They include Obama appointee Judge Robert Wilkins, who previously wrote a dissenting opinion upholding EPA's authority to ban HFCs.

But the three judges Friday had more questions for Lorenzen than for the challengers to the rule. Both Wilkins and Senior Judge Harry Edwards seemed unsatisfied with Lorenzen's timeliness argument.

"You've got to understand as an institutional matter, what we face all the time," said Edwards, a Carter appointee. "We're bound by the law of the circuit; we're bound by what a prior panel says. We have ways to deal with that. And there are a lot of times we'll look at a prior opinion and say, 'I don't quite see it that way,' but if it's the law of the circuit, it's the law of the circuit."

Kigali Amendment

The SNAP rules were the Obama administration's plan for U.S. compliance with Kigali, but they're by no means the only way to achieve the phase-downs required under the 2016 amendment to the Montreal Protocol.

Congress could move implementing legislation before the deal is ratified, or the United States could join the treaty and address compliance questions subsequently. Kigali took effect New Year's Day without U.S. participation ([Climatewire](#), Jan. 7).

The amendment enjoys broad support, not only among industry and environmentalists but in Congress.

"We have some pretty strange bedfellows supporting Kigali ratification," said Senate Environment and Public Works Committee ranking member Tom Carper (D-Del.) in a recent floor speech.

Thirteen Senate Republicans asked President Trump in a letter last year to send Kigali to the Senate for ratification, whatever the outcome in the courts. In many cases, they were urged on by home-state companies like North Carolina-based Honeywell International Inc. or Carrier Corp., the air conditioning company Trump once claimed credit for persuading to stay in Indiana ([Climatewire](#), Sept. 17, 2018).

Last Congress, Carper joined with Sen. John Kennedy (R-La.) and bipartisan co-sponsors to introduce legislation that tracked the HFC phase-down schedule for developed countries under Kigali. The pair are consulting industry and stakeholders about a new version. Chances of its passage in the House have improved greatly with the new Democratic majority.

But the White House has not signaled when or whether it will ask the Senate to ratify Kigali.

The National Security Council has convened several meetings with agencies, including the Commerce and State departments and EPA. Carper and others have said that while most agencies have expressed support for the agreement, EPA has not.

Agency air chief Bill Wehrum represented EPA in most of those meetings. Carper asked now-EPA Administrator Andrew Wheeler for his own position on Kigali during his confirmation, but Wheeler was noncommittal. Mandy Gunasekara, who was deputy in EPA's air office until earlier this year, said in a BBC Radio interview last week that there are "a mixture of opinions and approaches right now" to Kigali within EPA.

"My problem with the Kigali Amendment is that it has co-opted an otherwise successful environmental treaty, the Montreal Protocol, and it's changing it on its face and substantively into a climate change treaty," she said.

But on the same program, former White House energy adviser George David Banks said Kigali would prevent China from dumping cheap HFCs into the U.S. market. U.S. companies will have an advantage because they patented the substitutes, he said.

If China and the United States ratify Kigali, "China will be permitted for some time to continue to manufacture HFCs, but they won't be permitted to sell them in the U.S.," Banks told E&E News. "This fact alone is largely responsible for the estimated \$46.5 billion in reduced imports that Kigali ratification could bring about."

Coal Ash

E&E News

TVA defends actions after massive coal ash spill

<https://www.eenews.net/energywire/stories/1060126665>

Associated Press

Posted: March 11, 2019

The Tennessee Valley Authority last week defended its relationship with a contractor accused of subverting safety precautions and sickening workers during the cleanup of a massive coal ash spill.

In a Wednesday letter to two Tennessee congressmen, TVA President and CEO Bill Johnson said that to TVA's knowledge, Jacobs Engineering Group Inc. "did not have a history of safety lawsuits or test tampering" when it was hired to oversee the cleanup. Johnson was responding to a February letter from Republican U.S. Rep. Tim Burchett and Democratic U.S. Rep. Steve Cohen asking several questions, including what TVA knew about Jacobs' safety record and how the utility responded to worker health complaints. Johnson wrote that TVA "put the safety of its employees and contractors first" throughout the cleanup. He defended the hiring of Jacobs and an ongoing contract with the company, noting that Jacobs regularly contracts on large government projects. At the same time, Johnson's letter acknowledged that jurors found Jacobs breached its duty to the coal ash cleanup workers by failing to adhere to its contract with the utility.

Jurors in November found that Jacobs' actions were capable of causing the workers' medical problems, ranging from high blood pressure to cancer. According to the lawsuit, more than 40 cleanup workers have died and more than 400 are sick.

Testimony included evidence that Jacobs employees took dust masks away from workers and threatened to fire them. A supervisor also told workers they would have to consume a pound of coal ash per day before it could harm them.

The judge has ordered the parties to attempt mediation before beginning a second phase of trial, in which the injuries of individual plaintiffs would be considered.

TVA is not a party to the lawsuit, but Johnson's letter addressed concerns that ratepayers may be on the hook for the cost of some or all of the litigation. Johnson wrote that TVA's contract with Jacobs contains indemnity provisions, but it is still to be determined whether TVA will have to pick up any of Jacobs' legal bills.

In his letter to Cohen and Burchett, Johnson downplayed any danger posed by coal ash, noting that current EPA rules call for treating it as nonhazardous waste. Environmentalists, however, point out that although EPA has put off a determination of whether coal ash is hazardous, the agency hasn't deemed it nonhazardous.

Johnson also noted that TVA held weekly safety meetings during the coal ash cleanup. He wrote, "TVA is not aware of any worker complaints being handled improperly by TVA."

A representative for Burchett said the Knoxville Republican has not yet read Johnson's letter in depth, but his concerns about the cleanup remain. A representative for Cohen, a Memphis Democrat, was not immediately available for comment Friday afternoon. The lawmakers' letter also asked about the environmental impact of coal ash that is contaminating groundwater at the Allen power plant in Memphis.

Johnson wrote that tests show the contamination is not affecting the much deeper Memphis Sand aquifer, from which the city gets its drinking water. That aquifer is separated from the groundwater by a layer of clay between 30 and 70 feet thick.

However, TVA drilled wells into the aquifer to cool its natural gas plant, which is replacing its old coal-fired plant, and residents are concerned the wells will provide a route for the contaminated groundwater to reach the deeper aquifer.

TVA is the nation's largest public utility, serving about 10 million people in parts of seven states. — *Associated Press*

Inside EPA

EPA releases 2016 study finding no need to address coal ash fills

<https://insideepa.com/daily-feed/epa-releases-2016-study-finding-no-need-address-coal-ash-fills>

Posted: March 11, 2019

EPA last month quietly posted a previously-unreleased 2016 study on the environmental impacts of using coal ash as a fill material that says existing federal policies are adequate to remedy any damage from existing fills, after the agency's Office of Inspector General (OIG) questioned why EPA never published the document.

The report, titled "Information Assessment of Historical Structural Fill Applications," is dated May 27, 2016 but was only made publicly available on Feb. 20 of this year, when it was posted at an EPA-maintained online repository for documents related to its Resource Conservation & Recovery Act (RCRA) program in response to a draft OIG report that faulted the agency for its failure to publish the document.

EPA says in the assessment that "based on the available information reviewed and the availability of response authorities, EPA has determined that no further action to address historical [coal ash] structural fill applications as a general issue is warranted at this time."

Environmentalists have long argued that “unencapsulated” reuse of coal ash -- uses where the ash can come in contact with the surrounding environment rather than being converted into a new material such as wallboard -- pose serious environmental risks due to toxic chemicals in the waste, which is also termed coal combustion residuals (CCR).

The 2016 assessment finds that while ash fills pose some hazards, “there are existing authorities” under both RCRA and the Superfund law that regulators can use to address those issues when they arise, meaning no new action is needed.

EPA made that finding in response to a 2011 OIG investigation, which found that officials had promoted reuse of waste ash from coal-fired power plants, including as a fill material, without properly assessing risks from the practice.

The agency agreed to complete new assessments of historical reuse practices and ultimately published its determination that they did not pose undue environmental hazards -- but without the supporting assessment on the use of ash in fills, which drew criticism from environmentalists as recently as 2017, and from the OIG in its new report.

“The agency did not make the determination public by publishing it on the EPA’s website. This type of transparency could provide information important to the public,” the OIG writes in its March 8 final report, titled “EPA Finalized a Study of the Historical Applications of Coal Ash as Structural Fill.”

But in the agency’s response to the OIG’s findings, Acting Deputy Administrator Barry Breen says the decision to withhold the document was justified by EPA’s ongoing revisions to the Obama administration’s RCRA ash disposal rule.

He writes that EPA’s waste office “is currently engaged in regulatory development activities which could result in proposed and ultimately final changes to portions of the CCR regulations including the CCR beneficial use definition. While the May 2016 Information Assessment of Historical Structural Fill Applications is an important analysis, it does not reflect a determination on issues currently before the Agency in this rulemaking effort.”

Emissions

Delaware Business Times

Viewpoint: Delaware lawsuit against EPA ill-conceived and ill-advised

<https://www.delawarebusinesstimes.com/delaware-lawsuit-against-epa-ill-conceived-and-ill-advised/>

Alex Vuocolo

Posted: March 11, 2019

Delaware has joined another multi-state lawsuit against a U.S. Environmental Protection Agency (EPA) regulation. The Obama-era EPA wrote the Cross-State Air Pollution Rule to limit power plants in upwind states such as Pennsylvania from polluting downwind states such as Delaware.

The D.C. Appeals Court overturned the regulation as it required states to reduce emissions by more than their relative contributions to downwind pollution and didn’t allow the states to devise their own compliance plans as required by the Clean Air Act. In 2016 the EPA released an updated regulation that set more appropriate goals and allowed states to establish their own plans to meet the goals.

The primary issue is the emission of nitrogen oxides (NOX) that contribute to formation of ground level ozone. By the end of 2017 every power plant in the areas covered by the new rule met the rule. Pennsylvania power plants reduced NOX emissions 60 percent between 2016 and 2017 alone.

In Delaware, only New Castle County fails to meet the National Ambient Air Quality Standard for ozone of 70 parts per billion (PPB) in an eight-hour period. However, maximum ambient levels fell from 78 PPB in 2016 to 72 in 2018.

Delaware easily meets air quality standards for other pollutants.

Power plants now account for only a few percent of NOX emissions. About two-thirds of NOX emissions come from motor vehicles. Required emission improvements in motor vehicles are reducing emissions about 6 percent a year as older vehicles leave the fleet. Consequently, the EPA projects New Castle County will meet the ozone standard by about 2022, and it may be sooner. Western forest fires contributed significantly to the above standard ambient levels in 2018. So, why are states like Delaware suing the EPA? These states are not satisfied just having clean air. They want to force other states to shut down their coal-fired power plants by any means available. The preferred solution would force the adoption of expensive carbon dioxide taxes or cap and trade programs that have left the suing states with uncompetitive electricity rates.

An earlier lawsuit has a similar goal. A comparison of states shows states with such programs have lost a third of their energy-intensive businesses, decreasing incomes and economic growth. Ironically, the shutdown of power plants in the suing states forced them to import more electricity from the very states they are trying to force out of the electric generating business!

Apparently, misery loves company.

Environmental Defense Fund

New Research Doubles Service Life Estimate of Marine Workboat Engines, Reveals Big Opportunities for Diesel Emissions Reductions

<https://www.edf.org/media/new-research-doubles-service-life-estimate-marine-workboat-engines-reveals-big-opportunities>

(Media Contact) Sharyn Stein

Posted: March 10, 2019

New Research Underscores Cost-Effective Opportunity to Upgrade to New Diesel Engines and Reduce Emissions for Vulnerable Communities

March 11, 2018 (WASHINGTON) – Commercial workboat engines, which are essential for maritime commerce, are staying in service more than two times longer than predicted by the U.S. Environmental Protection Agency (EPA), according to new research from the [Diesel Technology Forum \(DTF\)](#) and [Environmental Defense Fund \(EDF\)](#). This finding reveals important opportunities for clean air improvements, especially in large port cities like New York and Houston.

DTF and EDF's new report, ["Impact of Updated Service Life Estimates on Harbor Craft and Switcher Locomotive Emission Forecasts and Cost-Effectiveness"](#), completed by Ramboll Environ, found the average Category 2 workboat remains in service for 50 years, instead of the 23-year lifespan estimated by the EPA in the [2008 Heavy Duty Locomotive and Marine Rule](#). A longer service life reduces the fleet's turnover rate to cleaner, lower-emitting engines, therefore increasing future-year emission estimates.

The [U.S. Army Corps of Engineers](#) estimates that, as of 2014, there were approximately 9,000 Category 1 and 2 marine vessels operating on U.S. waters. The Category 2 workboats highlighted in the DTF and EDF report have displacements of 7 to 30 liters per cylinder and are installed primarily in larger workboats like pushboats, towboats or off-shore support vessels. These vessels provide a range of essential services in waterborne commerce including towing, harbor navigation, docking, supply and rescue, and recovery.

"Diesel engines are known and valued for their legendary durability; thanks to their unmatched combination of power, performance, efficiency and reliability, diesel engines are the technology of choice for marine workboats," said Ezra Finkin, DTF Policy and Outreach Director. "This report underscores that more, older engines remain in service today. Since real-world workboat engines are operating with longer lifespans, the actual nitrogen oxide emission reductions are 52 percent weaker than predicted in EPA's 2008 Rule calculations. Replacing more of these older and longer-lived engines with the latest clean diesel models, faster, will generate significant emissions reductions.

The EPA estimates that, as of 2014, 81 percent of Category 1 and 2 workboats used older, uncontrolled or Tier 1 diesel engines, which are 10 times higher in emissions than a modern Tier 4 diesel engine. According to the DTF-EDF report, the slow turnover rate of these technologies means communities will only see nitrogen oxide (NOx) reductions of 161,167 tons per year, well below the 333,925-ton reduction predicted in the EPA 2008 Rule. Similarly, fine particulate emissions (PM 2.5) will only be reduced by 3,537 tons per year, instead of by 8,758 tons per year.

"Most tugs are operating in locations near America's ports which do not meet current federal health-based air quality standards," said Dr. Elena Craft, EDF Senior Director. "This study underscores the need to increase funding for the replacement of older marine engines, reduce exposure to diesel emissions, and for EPA to update the service life assumptions used by the 2008 Rule."

Starting in 2015, new diesel engines used in marine applications in the United States were required to meet Tier 4 emissions standards. Relative to previous generations of technology, these latest clean diesel technologies are proven to dramatically reduce emissions, including nitrogen oxides and fine particulates, by 88 percent to 95 percent compared to previous generations.

Significant Emissions Reductions Opportunity: New York and Houston Examples

Despite the widespread availability of the new, cleaner diesel engines for workboats, the cost and downtime required to upgrade to new engines and other factors have likely delayed investments in the newest technologies.

"If the rate of turnover to the newest generation of diesel technologies can be accelerated, near-port communities stand to reap significant air quality benefits; it's definitely low-hanging fruit on the clean air tree," said Allen Schaeffer, DTF Executive Director. "For example, if all existing Category 2 vessels serving the New York Harbor upgraded to the newest diesel engines, emissions in the New York metropolitan area would be cut by more than 8 tons of nitrogen oxides per day. In the Port of Houston and Galveston, more than 4 tons of nitrogen oxides reductions per day could be realized for the Houston metropolitan area."

State governments have an opportunity right now to replace old work boat engines with new ones, delivering significant and immediate emission reductions for surrounding communities, long before many other options. States can use funds from [Volkswagen's \\$2.9 billion environmental mitigation trust](#) for marine repower projects.

A related study by DTF and EDF confirms that upgrading workboats to the newest-model clean diesel engines delivers the greatest emissions improvements for the lowest cost. Commercial marine engine upgrade or repower projects are very cost-effective owing to high engine rated power, hours of operation, engine load, and long service life. On average, upgrading the engines of a single tugboat to the newest diesel technologies eliminates 14.9 tons of nitrogen oxide emissions per year for only \$4,379 per ton of nitrogen oxide eliminated. Compare this to the cost of many other types of nitrogen oxide -reduction projects: more than \$30,000 per ton of nitrogen oxide.

"Large engine repowers are more than six times as cost effective on a dollar-per-ton-of-emissions-reduced basis than other projects, which should make for an easy and compelling choice for states in ozone non-attainment," said Schaeffer. "The incentive funds give boat operators a brand new, more efficient, fuel-saving and lower-emitting engine at a fraction the cost. Even better, the emission benefits associated with these projects will accrue quickly and persist for many years."

WGNTV

EPA records highest levels of cancer-causing gas near Sterigenics to date

<https://wgntv.com/2019/03/09/epa-records-highest-levels-of-cancer-causing-gas-near-sterigenics-to-date/>

Dana Rebik

Posted: 6:56pm, March 9, 2019

The latest test results near the shuttered Sterigenics facility in suburban Willowbrook reveal the highest levels to date of ethylene oxide in the air.

The U.S. Environmental Agency has been conducting ongoing testing for the cancer-causing gas. Sterigenics was shut down last month by Gov. JB Pritzker amid public outcry.

The latest numbers, released this week, come from samples taken between Jan. 22 and Feb. 11 — shortly before the facility was closed.

The levels fluctuated, but the EPA said ethylene oxide levels found Feb. 5 were the highest since air monitoring began. Officials believe Sterigenics is responsible for the significant levels of the chemical, which was found in neighboring communities and at Hinsdale South High School.

One area recorded a reading of 26.4 micrograms per cubic meter of the chemical — which is more than 1,000 times the limit allowed by the EPA.

Sterigenics said it believes it complied with its EPA permit and called the variability of concentrations both "inexplicable and inconsistent."

The EPA has promised more answers over the next few months after finishing a cancer-risk evaluation. Meanwhile, members of the Stop Sterigenics group are traveling to Washington, D.C., on Monday to speak with federal lawmakers. To read the EPA test results and learn more about Sterigenics testing, [click here](#).

E15

Journal Democrat

Celebrate Nebraska agriculture during Ag Week

<https://www.journaldemocrat.com/news/20190311/celebrate-nebraska-agriculture-during-ag-week>

Steve Wellman

Posted: 11:46am, March 11, 2019

Nebraskans are fortunate to know the importance of agriculture because we live in an ag state. Agriculture is our number one industry. We know that it takes more than farmers and ranchers to make our food possible. One in four jobs are related to agriculture. The entire agriculture industry, all the way to the grocery store, are vital links in a chain that brings food to Nebraskans, Americans and millions of people around the world.

National Ag Week is a good time to reflect — and be grateful for — agriculture and the important role it plays in our daily lives. It's also a good time to recognize and show appreciation to the people who provide the food, feed and fuel that we depend on every day.

Nebraska farmers, ranchers and others involved in agriculture are working harder than ever and it shows. Nebraska consistently leads the nation in several categories.

In 2018, Nebraska ranked number one among all states for beef exports, commercial red meat production, all cattle on feed and Great Northern bean production. We've ranked first in the nation for a number of years in popcorn production, too.

Nebraska ranks in the top ten nationally in several categories. In agricultural exports, Nebraska ranks third in the nation in corn exports and fifth in soybean exports, egg and egg product exports and pork and pork product exports. Nebraska ranks third in the nation for corn (grain) production and fifth in soybean production, alfalfa hay production, grain sorghum production and sugar beet production. These are just a few examples from a long and impressive list.

These successes and high rankings show how important the ag industry is to Nebraska's economy. Nebraska's ag industry adds more than \$21 billion to the state's economy, making growth in agriculture the key to growing Nebraska.

There are many ways to grow the ag industry in Nebraska like promoting our quality ag products internationally and adding value to our grains with investments in livestock and biofuels. With 30 percent of our production exported, international trade agreements like the USMCA are vital to ensure access to these markets.

Two programs that support livestock development in Nebraska are the Livestock Friendly County program and the livestock siting assessment matrix, both administered by the Nebraska Department of Agriculture (NDA).

Six counties were added last year to the Livestock Friendly County (LFC) program bringing the total number of LFCs in Nebraska to 49. That's more than half of the counties in Nebraska! By requesting and receiving the state's LFC designation, these counties are showing their support and their business-friendly atmosphere toward the livestock industry.

Additionally, Hall County joined Dodge and Merrick counties as the third county in the state to adopt the livestock siting assessment matrix to bring greater predictability to decisions on livestock siting applications. The matrix is a tremendous tool for planning and zoning committees and for farmers because it gives the board more information about the project, the owner, and their management.

Ethanol production is another area in which Nebraska agriculture exceeds. Nebraska ranks second in the nation in ethanol production capacity. According to the Nebraska Energy Office, more than 90 percent of all fuel in Nebraska is blended with locally-produced ethanol. This homegrown industry supports more than 1,300 jobs across the state and 25 ethanol plants.

Last October, President Trump directed the Environmental Protection Agency (EPA) to approve the use of E15 year around. A final rule from the EPA would allow E15 to be sold all year long.

Once E15 is approved for sale year-round, across the country, Nebraska ethanol producers will have more opportunities to produce and sell this proven, cheaper and cleaner fuel. More consumption of E15 will increase demand for our commodities and expand the use of lower cost, cleaner-burning fuel by consumers.

The EPA also recently approved a project requested by the State of Nebraska to study the use of higher ethanol blends. In the pilot program, Nebraska will study the use of E-30 in conventional vehicles owned by the state. We look forward to piloting the use of Nebraska-grown and produced E-30 in state vehicles.

Simply put, agriculture is all around us and vitally important to this great state. By promoting Nebraska agriculture both nationally and internationally, by encouraging livestock development, and by adding value to our commodities, we are supporting growth in the industry and creating more opportunities for Nebraskans.

It's important – particularly during National Ag Week – to show our gratitude to the many men and women who make agriculture possible. Agriculture is an entire industry dedicated to providing plentiful, affordable and safe food, feed and fuel every day. That's really what National Ag Week is all about...recognizing the role of agriculture, and celebrating it! We're excited about the opportunities ahead.

PoliticoPro

Wheeler sees E15 proposal out this week

<https://subscriber.politicopro.com/agriculture/whiteboard/2019/03/wheeler-sees-e15-proposal-out-this-week-2845894>

Ben Lefebvre and Eric Wolff

Posted: 3:36pm, March 11, 2019

HOUSTON — EPA Administrator Andrew Wheeler says he expects to sign a proposed rule by the end of this week allowing the year-round sale of 15 percent ethanol blends and altering the market for compliance credits under the Renewable Fuel Standard.

“I do intend to sign at some point this week a proposal for E15 and RIN price market mechanisms that I think will stabilize the biofuel market,” Wheeler told reporters at CERAWEEK. “It’s in the final stages of OMB review, but we should have it out this week.”

Wheeler had told Congress earlier this year he was concerned the monthlong government shutdown would delay getting the rule finalized in time for this summer’s driving season. But signing a proposal by the end of the week would seem to put the rule on track to make a June 1 deadline.

Wheeler also said the agency continued to consider requests from refiners for economic hardship exemptions.

“We will be moving forward as we get them from DOE,” he said. “[There are] five, six left over from 2017.”

Fuel/BioFuel

Bloomberg Environment

Hyundai, Toyota Join Forces for Hydrogen Bus, Truck Technology

<https://news.bloombergenvironment.com/environment-and-energy/hyundai-toyota-join-forces-for-hydrogen-bus-truck-technology>

Posted: 6:32am, March 11, 2019

Kelly Kasulis

Six tech and automotive companies creating partnership

Nicknamed the Majestic 13, group will work on developing refueling parts

Automaker and technology rivals are teaming up to bring hydrogen-powered buses and commercial trucks to the roads. South Korea’s Hyundai Motor Co. and Japan’s Toyota Motor Corp. are partnering with Royal Dutch Shell Plc, Air Liquide SA, Nel Hydrogen AS and Nikola Motor Co. to improve fuel-cell technology. They’ve given themselves a fun nickname — the Majestic 13—from the site of their first meeting with 13 people at the Las Vegas Stratosphere Hotel’s Majestic Room.

Hydrogen vehicles don’t produce greenhouse gases. About 95 percent of transportation energy worldwide now is thought to come from fossil fuels, mainly gasoline and diesel, according to the U.S. Environmental Protection Agency. Fossil fuels for transportation and other uses are the main source of the greenhouse gas carbon dioxide.

Hyundai already has come up with hydrogen refueling technology for its 2019 Nexo SUV. Larger commercial vehicles, however, face some unresolved technological hurdles. Hydrogen trucks and buses demand high-pressure fueling technology and bigger storage tanks, for example. It also takes a long time for commercial fuel cell electric vehicles to fill up at hydrogen stations designed for passenger vehicles.

“Just like combustion engine-powered vehicles, the aim of fuel cell electric vehicles is to have access to hydrogen fueling stations and refuel safely and quickly,” a spokesperson at Hyundai Motor Co. said March 8. “This is possible for passenger FCEVs, [but] challenges still remain for commercial FCEVs.”

The Majestic 13 plan to swap research and develop parts needed to refuel large-size commercial hydrogen vehicles. That includes items like gas storage receptacles, hoses, and nozzles.

“We decided to go the collaboration route with the goal of a common standard nozzle for fueling, as we would like others to fuel at our station and we would like to be able to fuel at theirs,” said Jesse Schneider, executive vice president of technology, hydrogen and fuel cells at Nikola. “The faster we can get both the fuel cell truck and accompany hydrogen infrastructure technology standardized and commercialized across the board, the better.”

Hydrogen Market Advances

Other companies in the Majestic 13 partnership also are making waves in the hydrogen market.

Shell is setting up hydrogen fueling stations across California. Shell last year opened its first hydrogen station in Vancouver, British Columbia, and announced plans to build four hydrogen stations in the Netherlands. Air Liquide announced in November that it will invest more than \$150 million to build a liquid hydrogen plant somewhere in the western U.S.. Meanwhile, Nikola has been working on its Nikola Two semitruck, which boasts zero emissions, faster breaking times on the road, and better speeds uphill than typical diesel-powered equivalents

Bloomberg Politics

EPA Biofuel Trading Plan Would Hurt Banks, Buffett Truck Stops

<https://www.bloomberg.com/news/articles/2019-03-11/epa-biofuel-trading-plan-said-to-hurt-banks-buffett-truck-stops>

Jennifer A Dlouhy and Mario Parker

Posted: 12:55pm, March 11, 2019

Proposal would slap restrictions on biofuel credit trading
Plan may cut revenue for oil companies, Buffett's truck stops

A Trump administration plan to impose trading restrictions on biofuel credits would slash revenue for big oil companies and truck stops like those owned by Warren Buffett, while forcing Wall Street banks out of the market. The draft proposal, now being reviewed by White House officials and set to be formally released by the Environmental Protection Agency as soon as this week, aims to quell wild price swings in credits that refiners use to prove they have satisfied annual government-mandated blending quotas for biofuels such as ethanol and biodiesel. The plan was described by four people familiar with the document who asked not to be named discussing administration strategy. EPA spokesman John Konkus said the agency does "not comment on items under interagency review." President Donald Trump directed the EPA to develop the measure to aid some independent oil refiners as part of a political move that also helps agricultural communities by lifting summertime fueling restrictions on ethanol, a corn-based competitor.

The draft asks for public comment on four major possible restrictions in trading and holding biofuel credits known as Renewable Identification Numbers, or RINs, according to the people familiar with the document. The feedback is meant to guide a final EPA decision about which limits to adopt in the market billionaire Carl Icahn once blasted as "rigged." The prospect of sweeping changes to the thinly traded RINs market has unleashed fierce lobbying by refiners and integrated oil companies dueling over the idea. At stake: profits tied to a market worth \$18 billion in recent years, including a revenue stream for truck stops such as those owned by Buffett's Berkshire Hathaway Inc.

Read: The Fake Biofuel Factory That Pumped Out Real Money But No Fuel

Although the government created the RIN system to give refiners more flexibility in fulfilling U.S. mandates to use biofuel, the credits that are created along with each gallon of ethanol and biodiesel are now traded as commodities, with swaps negotiated among companies, traders and brokers via email and instant messages.

Under current rules, refiners and importers have up to two years to submit RINs to the government as proof they have satisfied biofuel quotas, but credits can change hands many times before they are submitted to the EPA and therefore "retired." Companies that fall short of blending requirements must buy RINs to make up the difference.

Two of the EPA's options seek to promote steadier trading volumes, block companies from hoarding credits and discourage refiners from shorting the market, by forcing traders to shed holdings quarterly. Refiners and importers that are obligated to blend biofuel would have to retire 80 percent of their obligation every quarter. Companies that don't actually need to fulfill biofuel quotas -- but generate or trade RINs anyway -- would have to rid themselves of all of their credits quarterly.

Shorting the Market

The time limits could undercut some trading strategies, including refiners' ability to short the market by betting RIN prices will fall and buying credits just before they are needed to prove compliance each March.

The EPA also plans to ask the public about imposing firm position limits or disclosure requirements meant to shine a spotlight on anyone with a large collection of RINs. Under the agency's proposed two-part test, details would be revealed about companies holding at least 3 percent of the total credit pool as well as more RINs than needed to meet 130 percent of their individual biofuel quotas.

Another proposed provision would edge some traders out of the market by limiting the sale of credits to refiners and importers obligated to satisfy U.S. biofuel mandates.

Oil Industry Rift

The EPA is “trying to make the system more transparent,” said Wallace Tyner, an agricultural economist at Purdue University in West Lafayette, Indiana.

However, the effort has widened a rift in the oil industry, which could see uneven results from the changes. Independent refiners that must purchase RINs to satisfy quotas argue reforms will pare compliance costs by damping speculating and calming volatile prices. But the restrictions also could lower RIN-related revenue for large, integrated oil companies that generate more than enough of their own credits and sell the excess for profit.

The American Petroleum Institute, which represents some of the world’s largest oil companies, including BP Plc and Royal Dutch Shell Plc, argues the changes would limit liquidity while failing to solve more fundamental problems with the U.S. Renewable Fuel Standard.

Read: Icahn-Hated Fuel Mandate Makes Profit for Gas-Station Owners

Efforts to “cherry pick” aspects of the biofuel program for reform “both misdiagnose the problem and provide misguided and counterproductive cures,” said Frank Macchiarola, head of downstream operations at API. “The RFS is a broken program that needs significant reform, but parties have made capital investments and business decisions under the existing program structure.”

Under the current dynamic, some truck-stop owners such as Pilot Flying J Inc. and Murphy USA Inc., are able to sell RINs created by blending biodiesel and ethanol for sale at filling stations. Buffett’s Berkshire Hathaway purchased a 38.6 percent stake in Pilot Travel Centers LLC, owner of the Pilot Flying J truck chain, in 2017.

The Virginia-based trade group NATSO, which represents Pilot Flying J, Love’s Travel Stops and Country Stores Inc. and 1,700 travel plazas and truck stops, warns changes to the RINs market “would cause more harm than good.” RIN values are used to determine pump prices for biodiesel, which costs more than petroleum-based diesel. The group argues RIN revenue has provided an incentive to build out distribution infrastructure.

Price Swings

Independent refiners such as Valero Energy Corp. insist reforms are necessary to rein in an irrational market in which economic transaction costs are estimated to dwarf those for oil, ethanol and other energy commodities. Policy news out of Washington has sparked violent swings in prices. RINs tracking ethanol consumption hovered at just a few pennies in 2012 but soared to \$1.40 apiece in 2013 and have generally fluctuated between \$0.20 and \$1.10 since then.

Supporters of restrictions point to market anomalies documented in a 41-page analysis by NERA Economic Consulting spearheaded by former Commodity Futures Trading Commission member Sharon Brown-Hruska. The analysis, conducted for Valero, notes that when RINs near expiration dates, they historically cost more than credits with a longer remaining lifespan, even though the opposite should be true.

The unorthodox pricing -- akin to consumers paying more for eggs about to go bad than those that don’t expire for weeks -- suggests an inefficient market and possible hoarding of credits, NERA said. And just small amounts of hoarding can cause RIN prices to jump, creating an incentive for companies with excess credits to withhold supply, NERA said.

Green Car Reports

EPA says fuel economy rose in 2017, but it may be falling again

https://www.greencarreports.com/news/1121933_epa-says-fuel-economy-rose-in-2017-but-it-may-be-falling-again

Eric C. Evarts

Posted: March 11, 2019

An EPA report released Wednesday shows that cars are getting better gas mileage in response to rising fuel economy standards.

Yet a roaring economy and low gas prices have put Americans on a truck-buying spree, and the EPA is working to undermine those standards.

According to its annual automotive trends report, the average new car reached a record 24.9 mpg in 2017, up from 24.7 in 2016.

What's more, the report shows a distinct improvement in fuel economy, and a corresponding reduction in greenhouse gas emissions, since the current Corporate Average Fuel Economy standards were enacted in 2012. Over that period, the average mpg of the cars sold by 12 of the 13 top-selling automakers in the U.S. rose from 23.6 mpg to 24.9, a reduction of 20 grams per mile of carbon-dioxide.

The top performers in fuel efficiency were Honda, which hit an average of 29.4 mpg, and Mazda at 29 mpg. The study did not include Teslas, which are rated at 123 miles per gallon equivalent (Model 3), 102 MPGe (Model S), and 87 MPGe (Model X) on electricity. The study is a measure of the fuel that cars in America burn. So the gains are bigger than the report indicates.

As Americans have converted to buying more SUVs and pickups, that has lowered the average. American automakers Chrysler, Ford, and GM, which have eliminated sedans from their lineups, anchored the bottom of the ratings at 21.2 mpg for Chrysler and 22.9 mpg in a tie for Ford and GM.

The rising fuel-economy standards through 2025 were passed early in the Obama administration, the first time fuel economy standards had been raised on cars since 1989.

EPA Administrator Andrew Wheeler has proposed freezing the standards at 2020 levels through 2026 and said last month that the agency plans to make that final by next month.

"There are legitimate concerns about the ability to cost-effectively achieve the Obama Administration's standards in the near future," Wheeler said in a statement to *Reuters*.

The fuel economy standards correspond with tightening emissions standards, which were negotiated with California, which has set its own emissions standards under an exemption in the Clean Air Act. As part of the new fuel economy proposal, Wheeler has proposed to strip California of that exemption. Twelve other states follow the California standards, and 20 have joined the Golden State in a lawsuit against the EPA over the action.

Last Wednesday, the Trump administration implored Detroit automakers to back the EPA's proposal to force California to abide by federal standards, after the EPA cut off talks with California regulators to resolve their differences. Wheeler at the time said, "This is not a two-way negotiation."

Under the Obama administration fuel economy regime, automakers can also buy and sell fuel economy credits, which the report detailed, showing which automakers bought credits and which ones sold them.

The automaker with the most credits to sell and those who needed to buy them were similar to those to who achieved the highest and lowest fuel economy: Honda, Nissan, and Tesla sold the most, while Fiat Chrysler bought the most. It wasn't alone, however. BMW, Jaguar Land Rover, Volkswagen, and Mercedes-Benz parent Daimler also bought credits.

Water

Arizona Daily Star

Rosemont go-ahead casts aside EPA fears over water

https://tucson.com/news/local/rosemont-go-ahead-casts-aside-epa-fears-over-water/article_cd26ecde-61c2-5b18-aad5-29780135ec07.html

Tony Davis

Posted: March 10, 2019

The federal government issued the final permit Friday allowing the Rosemont Mine to be built despite written EPA warnings that the mine will pollute surface water and shrink, if not dry up, two nationally important streams.

In its most recent memos on the mine, obtained by the Arizona Daily Star and not previously reported, the U.S. Environmental Protection Agency said Rosemont's construction will destroy or reduce the size of wetlands, pools and springs, will damage Cienega Creek and Davidson Canyon, and destroy or shrink riparian areas.

The EPA's regional office also warned that the mine's cutoff of stormwater flows into neighboring streams and its groundwater pumping will significantly degrade federally regulated water bodies.

The impacts will be contrary to the goals of the federal Clean Water Act, the EPA said, strongly implying the act itself would be violated.

Yet, the Army Corps of Engineers issued the mine's Clean Water Act permit Friday — the last of many federal and state permits needed to allow a Canadian company to dig a half-mile deep, mile-wide open pit in the Santa Rita Mountains southeast of Tucson. Hudbay Minerals Inc., the Toronto-based company that proposes the mine, strongly criticized the EPA's conclusions in its own letters to the Army Corps. It accused the EPA of exaggerating the mine's impacts on surface water and groundwater, particularly the pollution threat.

When the Corps issued the permit, it generally agreed with Hudbay that the mine probably won't pollute streams.

It also agreed with Hudbay that some of the EPA's other concerns lie outside the Corps' legal jurisdiction. These particularly include the longstanding issue of how lowering the aquifer under the mine to create the open pit will affect Cienega Creek.

And the Corps agreed with Hudbay's view that the mine's planned mitigation measures will prevent a reduction in stormwater flows into neighboring streams.

"REGIONALLY RARE" WATERS ARE AT RISK, EPA SAYS

The Star recently obtained the EPA's comments and Hudbay's responses from the Army Corps through the Freedom of Information Act.

The Clean Water Act permit will allow Hudbay to place dredged and fill materials into a number of washes at the mine site to make the mine's construction possible.

Under federal guidelines used to carry out the act, discharges of dredged or fill material into streams can't be allowed if they will cause or contribute to significant degradation of federally regulated water bodies, the EPA said in its memos. That's precisely what the agency says Rosemont's construction will do.

The two EPA memos, written in November 2017, are the most recent of eight reports, letters and memos the agency has written critical of the \$1.9 billion mine project since 2012.

"The Rosemont Mine will degrade and destroy waters in the Cienega Creek watershed containing regionally rare, largely intact mosaics of some of the highest quality stream and wetland ecosystems in Arizona," the EPA concluded in one memo. "These environmental consequences are substantial and unacceptable."

For years during the Obama administration, the EPA's regional office said it considered Rosemont a logical project to be elevated for additional review by the EPA and the Army Corps' Washington, D.C., staffs. But on Feb. 28, the EPA's regional administrator, Mike Stoker, told a lawyer for tribes opposed to the mine that the agency didn't plan to elevate the case to Washington.

Asked by the Star to explain that decision, the EPA replied Friday in an email that "based on the revised permit" details, its regional administrator "exercised his discretion not to elevate."

"HIGHLY SPECULATIVE," HUDBAY COUNTERS

Hudbay said the impacts forecast by the EPA were "highly speculative" and based in part on U.S. Forest Service and U.S. Fish and Wildlife Service reports that substantially overstated problems the mine would cause.

In reports written in February 2018, Hudbay accused the EPA of misrepresenting or exaggerating findings of the other agencies and of overstating the ecological value of washes radiating from the mine site.

Hudbay also accused the EPA of failing to acknowledge mitigation measures that the company designed to forestall the impacts the EPA predicted — measures that filled 100 pages in the Forest Service's final Rosemont environmental impact statement.

The company also said a separate set of mitigation measures that include buying a 1,500-acre ranch along Sonoita Creek in Santa Cruz County will compensate for the mine impacts.

Details of the EPA's findings and Hudbay's and the Corps' rebuttals:

1. Impacts of groundwater drawdown.

To create and maintain the mine's open pit, Hudbay will have to withdraw groundwater from the aquifer underlying the mine site throughout the mine's 20-year life.

The EPA, like the Forest Service, admits the computerized groundwater models that agencies have used to predict these withdrawals' impacts on neighboring streams can't determine how severe they'll be. That's because the expected decline in the aquifer from groundwater removal likely will be less than the five-foot minimum needed to make accurate predictions, the agencies say.

But even small changes in groundwater levels will have "profound adverse effects" on surface water flows and the shallow aquifer directly underneath, EPA's memo says. One reason is that wet areas of many Southwestern aquatic habitats, including those around Cienega Creek, are shallow and susceptible to drying from small changes in surface water depths due to declining aquifers, the EPA says.

"The vulnerability of springs, seeps, stream flows, wetlands and riparian areas in the study area to groundwater drawdown is great," the EPA said. "These aquatic habitats are regionally rare, small in area and fragmented, and are currently shrinking in response to the ongoing drought."

Again citing Forest Service reports, the EPA warned that the mine would, over time, change three miles of Empire Gulch, 20 miles of Cienega Creek and one mile of Gardner Canyon from intermittent or perennial streams to ephemeral ones that carry water mainly during floods. These impacts are more certain to occur at Empire Gulch than at the other streams, the EPA memo says.

In its response, Hudbay says EPA's reasoning is flawed, as are the reports upon which it relied.

The groundwater models used to make predictions upon which EPA relied found the mine's impacts across the entire Cienega Creek Basin are likely to be small and won't occur until far in the future, Hudbay says. But these analyses are so otherwise flawed that they greatly overstate impacts, the company says.

The company accuses the Forest Service of conducting a "simplistic" analysis to learn the worst possible impacts. The service inappropriately assumed that one foot of groundwater drawdown will trigger a one-foot reduction in Cienega Creek streamflow, for example, the company said.

The agencies' findings "ignore the dynamic interactions between precipitation, stormwater runoff, recharge, evapotranspiration, temperature, bedrock groundwater, alluvial groundwater and natural trends that influence streamflow," wrote Hudbay's consultant, Westland Resources.

2. Scope of analysis.

The Army Corps' 83-page Rosemont permit decision released Friday didn't look at this issue. It said the impacts of lowering the water table were outside the scope of the issues it is legally authorized to review under federal guidelines for considering permits.

First, that's because the activity the Corps can control — the discharge of fill and dredged material into washes on the mine site — will be finished before Hudbay digs out the mine pit, 2,900 feet deep, the decision said.

Similarly, while the mine's waste rock and tailings will be dumped into much of the area where Hudbay discharges the dredged and fill material, the discharges will be the result of land clearing on the site — not from putting waste rock on it. So the mine's operations, like the tailings and waste rock disposal, also can't be analyzed for the Corps permit, the agency said.

Stu Gillespie, an attorney for three Indian tribes who oppose the mine, sharply criticized the Corps' view.

"What they are saying is that Hudbay is going to fill these washes ... eliminate those washes, but at the same time, saying we have no obligation to regulate the activities that will occur on top of those washes," he said.

"It's almost an invitation to developers to do whatever they want, and the Corps will turn a blind eye," said Gillespie, who said he expects the Tohono O'Odham and two other tribes will raise the issue in an upcoming lawsuit challenging the permit.

3. Water pollution.

The mine will convert washes such as Barrel Canyon at the head of the Cienega Creek Basin into pollution sources, the EPA said.

Heavy metals will run off the mine and degrade the quality of Cienega and Davidson Canyon downstream, it said.

In general, the water quality of the expected mine runoff is worse than the quality of creeks downstream, the EPA said. While the Forest Service has speculated that the mine's contamination load will slacken as it travels downstream, the EPA disagreed.

"In fact, contaminated mine runoff is additive, increasing concentrations of heavy metals to existing downstream waters and worsening water quality," it said.

Based on the EPA's analysis of water quality data, "stormwater runoff from the mine's waste rock and soil cover contaminated with lead, mercury, molybdenum, selenium, silver, sodium and sulfate will degrade the water quality of Barrel Canyon, Davidson Canyon and Cienega Creek," the agency said.

The state calls Davidson and Cienega "Outstanding Arizona Waters" that legally can't be polluted.

But the EPA's warnings aren't supported by findings from the Arizona Department of Environmental Quality, Hudbay said. ADEQ has certified that if Rosemont sticks to the various conditions and mitigation measures the state has imposed, the mine "will not cause or contribute to exceedances of surface water quality standards," Hudbay said.

Nor will it degrade Davidson or Cienega's water quality, ADEQ concluded.

The EPA's "speculative" warnings also don't recognize requirements of ADEQ's formal pollution discharge permitting system, Hudbay added. It requires the mine to meet conditions of a general industrial permit, containing specific standards for what's discharged and monitoring requirements.

Hudbay also noted that the Forest Service's Rosemont environmental impact statement predicted that the water quality in runoff from the mine's tailings and waste rock isn't expected to degrade the quality of surface water downstream. The Forest Service predicted dissolved silver is the only metal for which runoff would exceed water-quality standards, and ADEQ foresaw little likelihood of that happening.

In the Corps' decision Friday, it said downstream pollution can be prevented by requirements it will place in its permit for Hudbay to conduct the best possible management of pollution risks, do erosion control and comply with state requirements. Also, because the mine site occupies only 13 percent of the entire Davidson Canyon watershed, "it is not appropriate" to assume a direct link between runoff from the site and Davidson's water quality, the Corps said.

4. Surface water reductions.

The mine's presence will reduce stormwater discharges into Barrel and Davidson Canyon and Cienega Creek, causing huge problems for trees, shrubs and wildlife living downstream, the EPA said.

The causes will be the direct fill of washes on the mine site and modification of stormwater flows by the construction of basins and diversions designed to retain, slow or convey storm water around mine areas, the EPA said.

During the mine's 20- to 25-year life, it will slash stormwater runoff by more than 30 to 40 percent, which will reduce streamflow by at least 7 to 10 percent at the confluence of Davidson and Cienega, EPA said, based on Forest Service estimates.

"Even small statistical changes in low-water surface flows of a few percent will cause or contribute to significant degradation of the aquatic ecosystem through loss of aquatic habitat and declines in water quality," the EPA said.

The cutoff of stormwater at the mine site can also reduce shallow, underground water flows into the creeks, the EPA said.

Those reduced flows will in turn decrease the size and depth of existing pools in the two creeks, significantly reducing the amount of surface water available for fish and insects, including the endangered Gila chub and Gila topminnow at the Cienega-Davidson confluence, the EPA said.

Hudbay, however, says the estimated 30 to 40 percent streamflow reduction was merely an extrapolation of data done by a Forest Service consultant. While EPA believes the Forest Service's predictions of stormwater runoff were too low, Hudbay says it has documented that the predictions are too high.

It also says its planned mitigation measures, which include removal of four downstream livestock watering tanks from the site, "will more than offset any reductions in downstream flows."

The Army Corps' decision Friday agreed with Hudbay, saying the Corps has determined the removal of the tanks is needed to compensate for potential loss of streamflow due to the mine.

The Corps also noted that the mine site covers only 13 percent of the entire watershed feeding Davidson Canyon downstream. Because of that, "it is not appropriate to infer a direct correlation" between mine runoff and Davidson Canyon's water quality, the Corps said.

Bloomberg Environment

Administration Drops Effort to Delay Obama's Waters Rule

<https://news.bloombergenvironment.com/environment-and-energy/administration-drops-effort-to-delay-obamas-waters-rule>

David Schultz

Posted: 5:41pm, March 9, 2019

Move to delay effectiveness of WOTUS rule had been invalidated by lower court

Trump administration signals regulation to repeal rule may be imminent

The Trump administration has abandoned its bid to use the courts to delay the implementation of a landmark Obama-era policy protecting wetlands and waterways. But the legal action may merely be a prelude to regulatory steps that would have the same effect.

Last year, the administration attempted to pause for two years the so-called Waters of the U.S. rule, or WOTUS. But this effort was rejected by several district court judges, who ruled that the administration did not follow proper procedures to suspend the implementation of an existing regulation.

The Trump administration appealed, but on March 8 announced it would drop its challenges in two federal appeals courts—the 4th and 9th circuits.

This means the WOTUS rule—which redefines which bodies of water are regulated by federal anti-pollution laws— will remain in effect for the foreseeable future in more than 20 states across the country. The rule is blocked from taking effect in many other states by prior legal rulings.

Repeal Coming Soon?

But the March 8 announcement may not spell victory for fans of the WOTUS rule, including environmentalists who applauded the Obama administration's broader definition of what counts as a federal waterway.

The Trump administration has been working for months on a new regulatory action that would repeal the WOTUS rule permanently (RIN: 2040-AF74). This repeal is scheduled to take effect later this month, according to the website of the White House Office of Management and Budget.

"Rather than continuing to litigate, the agencies have decided to focus on the rulemaking actions underway," Molly Block, a spokeswoman with the Environmental Protection Agency told Bloomberg Environment in an email March 9.

The dropped appeals court cases are S.C. Coastal Conserv. League v. Wheeler, 4th Cir., No. 18-01988, motion to dismiss, 3/8/19 and Puget Soundkeeper All. v. Wheeler, 9th Cir., No. 19-35074, motion to dismiss, 3/8/19.

Concrete News

EPA taps public, private channel toward Water Reuse Action Plan

<http://concreteproducts.com/news/11595-epa-taps-public-private-channel-toward-water-reuse-action-plan.html#.XIZ9R-ZIIU>

Staff

Posted: 8:12am, March 11, 2019

A new EPA initiative aims to leverage industry and government expertise to ensure the effective use of the nation's water resources. "[They] are the lifeblood of our communities, and the federal government has the responsibility to ensure all Americans have access to reliable sources of clean and safe water," says Assistant Administrator for Water David Ross. "There is innovative work happening across the sector to advance water reuse, and the EPA wants to accelerate that work through coordinated federal leadership."

The Water Reuse Action Plan will seek to foster recycling as an important component of integrated water resource management. EPA will facilitate discussions among federal, state, and water sector stakeholders and form new partnerships to develop and deploy the plan. A draft of the plan is scheduled for release and public review in September at the Annual WaterReuse Symposium in San Diego. Agency actions are part of a larger effort by the Trump

Administration to better coordinate and focus taxpayer resources on some of the nation's most challenging water resource concerns, including ensuring water availability and mitigating the risks posed by droughts. EPA will work with the U.S. Departments of the Interior and Agriculture, plus other federal partners to collaboratively address water supply, resiliency, and other resource management priorities.

"Communities across the country are facing water shortages, and it is the role of the federal government to ensure that all have reliable access to the water needed to protect human health and maintain our robust economy," notes Interior Assistant Secretary for Water and Science Tim Petty.

EPA has previously supported water reuse efforts, including development of the 2017 Potable Reuse Compendium and Guidelines for Water Reuse, but the Water Reuse Action Plan is the first initiative of this magnitude that is coordinated across the sector. Ongoing efforts by other federal agencies, such as the U.S. Department of Energy's Grand Water Security Challenge, and by various non-governmental organizations dedicated to water resources management, will be coordinated as part of the overarching strategy to advance water reuse. EPA has posted additional Water Reuse Action Plan information [here](#).

Inside EPA

EPA Braces For Potential Litigation Over Massive Portland Harbor Cleanup

<https://insideepa.com/daily-news/epa-braces-potential-litigation-over-massive-portland-harbor-cleanup>

Suzanne Yohannan

Posted: March 11, 2019

EPA Administrator Andrew Wheeler recently gave Oregon Gov. Kate Brown (D) assurances that the agency plans to press ahead on the \$1 billion cleanup of the high-profile Portland Harbor Superfund site but cautioned it could face challenges after EPA recently weakened the cleanup plan to account for eased risk values for a chemical contaminant there. Such a challenge would likely be procedural, given the Superfund law's section 113(h) generally bars parties from challenging a cleanup plan until after it has been completed.

In a Feb. 24 meeting in Washington, DC, Brown pressed for EPA to get on with the cleanup, according to a Brown spokeswoman.

Key among the points the governor raised was that "it has been 19 years since the Portland Harbor was listed as a Superfund Site, and that the State supports moving forward with final Remedial Design work under the 2017 Record of Decision [(ROD)] so that we can get to active cleanup of the contaminated sediments as soon as practicable," the spokeswoman says in a written response to questions on the meeting.

Wheeler acknowledged EPA intends "to move forward with the ROD cleanup," but he also recognized "there could be outside legal challenges to the ROD," the spokeswoman says.

EPA's press office did not respond to questions by press time on the discussion.

While Superfund law, under section 113(h), generally bars pre-enforcement judicial review of cleanup remedies including RODs, procedural challenges could nonetheless proceed, a source with Earthjustice, an environmental law firm, notes.

The source declined to say whether Earthjustice, which filed critical comments on EPA's proposed revisions to the cleanup plan, would seek to file a procedural suit.

But the source notes that EPA proposed the revisions to weaken the cleanup at the site through an Explanation of Significant Differences (ESD). A party could seek to challenge the agency over its use of an ESD, rather than an amendment to the ROD, to revise the cleanup plan, the source says.

The Obama administration in 2017 signed a ROD to clean up 10 miles of contaminated sediment in the Lower Willamette River within the site -- one of a handful of high-profile, contaminated sediment sites the agency is seeking to remediate under the Superfund law.

Under the Obama plan, cleanup was estimated to cost \$1 billion and require as many as 13 years of construction. Last October, the agency released a proposed ESD to revise portions of the cleanup, proposing to pare back sediment cleanup levels for benzo(a)pyrene (BaP) and other carcinogenic polycyclic aromatic hydrocarbons (cPAHs). The proposed changes were prompted by an updated Integrated Risk Information System (IRIS) assessment that weakened estimated cancer risks for BaP, a key contaminant at the site.

The ROD had relied on a risk assessment that EPA conducted in the 1980s but the IRIS assessment that EPA finalized in January 2017 modified the oral cancer slope factor from 7.3 to 1 milligrams/kilogram/day for BaP, "resulting in a lower risk estimate associated with exposure to BaP and other cPAHs," the ESD says.

The revisions are predicted to lower cleanup costs by \$35 million and reduce the 2,200-acre cleanup by about 17 acres.

'Unravel The Cleanup'

But environmental and community groups weighed in strongly against the revisions, saying among many criticisms that the agency lacks the scientific basis to extrapolate the eased risk values from the BaP risk review to other chemicals in the same class at the site.

"EPA cannot unravel the Portland Harbor ROD through the backdoor based on a risk assessment on a single chemical," Earthjustice wrote in Dec. 21 comments to EPA on behalf of several groups including the Portland Harbor Cleanup Coalition, Willamette Riverkeeper, Audubon Society of Portland and Portland Harbor Community Advisory Group. During her discussion with Wheeler, Brown also pressed for EPA to assign sufficient staff to its operations office in Portland, noting it was too large of a project and too important to Oregonians to be staffed by EPA primarily out of the Region 10 office in Seattle, the spokeswoman says.

Wheeler told Brown he would discuss her staffing request with EPA Region 10 managers, she says.

The governor's office and the Oregon Department of Environmental Quality plan to provide joint comments to EPA after reviewing all of the public comments EPA received on the ESD as well as the federal agency's response to those comments, Brown's office says. EPA took public comment on the ESD through Dec. 21.

The Earthjustice source notes EPA must follow a procedural requirement to obtain the state's perspective on the revisions. -- *Suzanne Yohannan* (syohannan@iwpnews.com)